IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9095 of 2000
with
SPECIAL CIVIL APPLICATION No 9600 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

CHANDRAKANT D JOSHI

Appearance:
MR HARDIK C RAWAL for Petitioner
MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 28/09/2000

ORAL JUDGEMENT

1. RULE. The learned counsel Mr.T.R.Mishra waives service of Rule on behalf of the respondent.

2. Both these petitions are filed against the same respondent challenging the successive orders of the Labour Court, Jamnagar in IESO No.2 of 1998.

3. The respondent, a conductor, was issued with an order of dismissal dated 2.1.1998 after the chargesheet, departmental inquiry and a second show cause notice. On an application of the respondent praying for interpretation of the Standing Orders, the Labour Court granted, by way of interim relief, an order to maintain the status quo on 23.1.1998. That order to maintain the status quo was extended from time to time and is under challenge in Special Civil Application No.9600 of 2000. The Labour Court has, keeping the main application pending, made a second order dated 13.6.2000 ordering the petitioner to decide the departmental appeal of the respondent before 17.7.2000.

4. The learned counsel for the petitioner submitted that the impugned orders are wholly without jurisdiction and amount to gross abuse of process of the Court by the respondent. It is further submitted that even assuming that the Standing Orders as contemplated under the Industrial Employment (Standing Orders) Act, 1946 are applicable and the Labour Court was invested with the power to interpret the same, there was no question of granting any relief or the interim relief of the nature which has been granted by the Labour Court. It is further submitted that under such illegal orders and by prolonging the proceedings in the Labour Court, the respondent has continued in service for more than 30 months even after the order of dismissal. The judgment of this Court in CHHOTALAL LALJIBHAI CHANDSARA v. LUBI ELECTRICALS LTD. [1999 (2) G.L.H. 450] is relied upon, wherein it is held that section 13-A of the Industrial Employment (Standing Orders) Act, 1946 provides only for a reference as to application or interpretation of the Standing Order certified under the Act and the Labour Court is authorised to give its decision on the question so referred. The function of the Labour Court is limited only to the decision of the question referred to it regarding the application or interpretation of the Standing Order. The Labour Court is not invested with the power to grant relief in enforcement of the rights and liabilities created by the Standing Orders.

5. As against the law laid down by this Court, in the facts of this case, the mandatory relief is granted to the respondent and the same is in the nature of final

relief which could have been granted only after proper adjudication if the dispute was referred to the Labour Court under the Industrial Disputes Act. In this view of the matter, the impugned orders are wholly without jurisdiction and amount to abuse of the process of the Court. Therefore, the impugned orders in both the petitions are set aside. Rule in both the petitions is made absolute with no order as to costs.

Sd/-

(D.H.Waghela, J.)

KMG Thilake

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